

U.S. DISTRICT COURT
District of New Hampshire

NOV 28 2005
FILED

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA)
)
v.) CRIMINAL NO. 05-47-01-JD
)
ROBERT S. LEVINE)

**ORDER OF FORFEITURE AS TO
SUBSTITUTE ASSETS OF DEFENDANT ROBERT S. LEVINE**

The United States of America, pursuant to Rule 32.2(e) of the Federal Rules of Criminal Procedure, and Title 21, United States Code, Section 853(p), has moved for an order of forfeiture to include the interest of the defendant, Robert S. Levine, in a certain property, namely, a condominium located at 7 Tiffany Road, Unit 7, Salem, New Hampshire, as a substitute asset toward the satisfaction of a money judgment forfeiture in the amount of \$1,405,834.00.

In consideration of the United States' Motion, the Declaration of Special Agent Joseph Ridgley, the Memorandum of Law submitted by the United States, the Plea Agreement, and the entire record in this matter, the Court finds as follows:

On May 16, 2005, the Court entered a preliminary order of forfeiture as to the defendant, Robert S. Levine (amended on October 11, 2005). The preliminary order of forfeiture included a money judgment in favor of the United States in the amount of \$1,405,834.00, which amount represented the stipulated sum of the proceeds of the criminal offenses of which the defendant was found guilty.

The Court finds that, because of the acts or omissions of the defendant, Robert S. Levine, the proceeds of his offense are no longer available for forfeiture for one or more of the reasons set forth in Title 21, United States Code, Section 853(p):

- (A) cannot be located upon the exercise of due diligence;
- (B) has been transferred or sold to, or deposited with, a third party;
- (C) has been placed beyond the jurisdiction of the court;
- (D) has been substantially diminished in value; or
- (E) has been commingled with other property which cannot
be divided without difficulty..

As a result, pursuant to Rule 32.2(e) of the Federal Rules of Criminal Procedure and Title 21, United States Code, Section 853(p), the United States is entitled to an order forfeiting other property of the defendant as a substitute for the unavailable property ordered forfeited.

Accordingly, it is hereby ORDERED that all right, title and interest of defendant, Robert S. Levine, in the following asset is hereby forfeited to the United States:

a certain condominium located at 7 Tiffany Road, Unit 7, Salem, New Hampshire.

It is further Ordered that the United States Treasury, Internal Revenue Service, shall forthwith seize and retain the property ordered forfeited hereunder and shall take any other steps deemed warranted to preserve its availability for forfeiture pending the conclusion of any third party proceedings which may be conducted in this matter pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure and Title 21, United States Code, Section 853(n).

The United States shall, promptly after the seizure of said property, initiate proceedings necessary to protect any third party interests in the substitute property, pursuant to and in accordance with Rule 32.2(e) of the Federal Rules of Criminal Procedure and Title 21, United

States Code, Section 853(n), prior to requesting entry of a final order of forfeiture with respect thereto.

It is further ORDERED that upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to Title 21, United States Code, Section 853(n) in which all interests will be addressed. If no claims are filed within 30 days of the final publication or receipt of actual notice, whichever is earlier, then, pursuant to Title 21, United States Code, Section 853(n)(7), the United States will move for a final order of forfeiture, and the United States Treasury, Internal Revenue Service, or any duly authorized law enforcement official, shall dispose of the property forfeited hereunder according to law.

Dated: November 25, 2005

Jessica Dickey
United States District Judge